ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff-Respondent,	§	
v.	§	CIVIL ACTION NO. B-05-096
	§	(CRIM. ACTION NO. B-04-209-01)
JUAN RODRIGUEZ	§	
Defendant-Movant.	§	

ORDER

BEFORE the Court is a motion submitted by Juan Rodriguez (Docket No. 1). In his motion, Rodriguez asks the district court to reconsider his conviction for illegal re-entry and the sixteen level enhancement he received at sentencing in light of the Supreme Court's recent decision in *Shepard v. United States*, --- U.S. ---, 125 S. Ct. 1254 (2005).

Movant is hereby notified that the Court construes his motion as a 28 U.S.C. § 2255 application for habeas corpus relief. This characterization of his motion means that any subsequent § 2255 motion will be subject to the restrictions on "second or successive" motions found in the Antiterrorism and Effective Death Penalty Act (AEDPA). *Castro v. United States*, 124 S.Ct. 786, 792, 157 L.Ed.2d 778 (2003). In other words, Movant should be aware that this characterization makes it significantly more difficult for him to file another such motion. Movant may, if he so chooses, withdraw his motion in order to avoid these limitations on future § 2255 filings. *Id*. If Movant chooses not to withdraw his motion he should ensure that the current motion contains all the § 2255 claims he believes he has. Movant should carefully read the issue identified by the Court above and amend the

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motion to include any other claims he would like the Court to consider. Movant has 30 days in which

to amend his motion.

It is therefore ORDERED that Movant's letter shall be construed as a § 2255 application for

habeas corpus. Movant is ORDERED to file any additional claims with the district clerk no later than

May 31, 2005. It is FURTHER ORDERED that the district clerk provide the Movant with the

necessary forms so that he may amend his motion.

IT IS SO ORDERED.

DONE at Brownsville, Texas this 28th day of April, 2005.

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Felix Recio
United States Magistrate Judge

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